

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JAN R. JURDEN
JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 NORTH KING STREET, SUITE 10400
WILMINGTON, DELAWARE 19801-3733
TELEPHONE (302) 255-0665

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Date Decided: August 26, 2005

Allen D. Bowers, II, Esquire
Law Office of Joseph J. Rhoades
1225 King Street, Suite 1200
P.O. Box 874
Wilmington, DE 19801

Alex J. Mili, Jr., Esquire
City of Wilmington Law Dept.
800 N. French Street, 9th Floor
Wilmington, DE 19801

Beth H. Christman, Esquire
Casarino, Christman & Shalk
800 N. King Street, Suite 200
P.O. Box 1276
Wilmington, DE 19899

RE: **Jayne S. French vs. The City of Wilmington, A Municipal Corporation of The
State of Delaware, Correy Brown and Patrick E. Godfrey v. Patrick E. Godfrey
C.A. No. 02C-07-063-JRJ**

Dear Counsel:

The Court has reviewed the post-hearing submissions relating to Defendant Godfrey's Motion for Summary Judgment. In his deposition, Firefighter Krystopolsky testified:

We were sitting there at the light, we were edging up so we could look up Shipley and I heard a couple of warbles and saw the lights in the side view mirror. And I told Ron to let up and let him [Brown] go because there was something going on.

Defendant Godfrey points out that elsewhere in Krystopolsky's deposition, he testified his firetruck was "five to ten feet before the intersection" when the accident happened. Based on Firefighter Krystopolsky's testimony alone, there is a genuine issue of material fact as to whether Defendant Godfrey should have seen the emergency lights on the firetruck or heard the firetruck siren.

The defendant argues that his expert testimony establishes that the intersection where the accident

occurred is a “blind” intersection, and because the defendant, City of Wilmington, has failed to rebut this testimony, Defendant Godfrey is entitled to judgment as a matter of law on the issue of his alleged negligence. According to Defendant Godfrey, in light of the defendant City’s failure to rebut Godfrey’s expert testimony that the configuration of the intersection makes it very difficult for motorists on Shipley Street approaching 4th Street to see or hear what is happening on 4th Street, the only way a jury could conclude that Defendant Godfrey was negligent was to speculate about what Godfrey could see or hear. The Court disagrees. There are ample facts from which a jury could determine what Defendant Godfrey should have seen or heard as he approached the intersection. There are questions of material fact as to where the firetruck was shortly before the collision, i.e., whether it was stopped at the intersection or moving up to the light before the collision, what, if any, of the firetruck and its emergency lights should have been visible to Defendant Godfrey as he approached the intersection, and whether Defendant Godfrey should have heard the firetruck siren. These are questions for the jury to decide. For these reasons, Defendant Godfrey’s motion is **DENIED**.

IT IS SO ORDERED.

Very truly yours,

Jan R. Jurden
Judge

JRJ/mls

Original to Prothonotary